

§ 201.35

(e) [Reserved]

[20 FR 7928, Oct. 21, 1955]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 201.34, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 201.35 Blank spaces.

Blank spaces on the label shall be deemed to imply the word “None,” when such interpretation is reasonable.

[5 FR 32, Jan. 4, 1940]

§ 201.36 The words “free” and “none.”

The words “free” and “none” shall be construed to mean that none were found in a test complying with the methods set forth in §§ 201.45–201.52.

[5 FR 32, Jan. 4, 1940]

MODIFYING STATEMENTS

§ 201.36a Disclaimers and nonwarranties.

A disclaimer, nonwarranty, or limited warranty used in any invoice or other labeling, or advertisement shall not directly or indirectly deny or modify any information required by the act or the regulations in this part.

[15 FR 2394, Apr. 28, 1950]

ADVERTISING

§ 201.36b Name of kind and variety; designation as hybrid.

(a) The representation of the name of a kind or kind and variety of seed in any advertisement subject to the act shall be confined to the name of the kind or kind and variety determined in accordance with § 201.34. The name shall not have associated therewith words or terms that create a misleading impression as to the history or characteristics of the kind or kind and variety. Descriptive terms and firm names may be used in kind or variety names provided the descriptive terms or firm names are a part of the name or variety of seed; for example, Stringless Green Pod, Detroit Dark Red, Black Seeded Simpson and Henderson Bush Lima. Seed shall not be designated as hybrid seed in any advertisement subject to the act unless it comes within the definition of “hybrid” in § 201.2(y).

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(b) Terms descriptive as to color, shape, size, habit of growth, disease-resistance, or other characteristics of the kind or variety may be associated with the name of the kind or variety provided it is done in a manner which clearly indicates the descriptive term is not a part of the name of the kind or variety; for example, Oshkosh pepper (yellow), Copenhagen Market (round head) cabbage, and Kentucky Wonder (pole) garden bean.

(c) Terms descriptive of quality or origin and terms descriptive of the basis for representations made may be associated with the name of the kind or variety: *Provided*, That the terms are clearly identified as being other than part of the name of the kind or variety; for example, Fancy quality redtop, Idaho origin alfalfa, and Grower’s affidavit of variety Atlas sorghum.

(d) Terms descriptive of the manner or method of production or processing the seed (for example, certified, registered, delinted, scarified, treated, and hulled), may be associated with the name of the kind or variety of seed, providing such terms are not misleading.

(e) Brand names and terms taken from trademarks may be associated with the name of the kind or variety of seed as an indication of source: *Provided*, That the terms are clearly identified as being other than a part of the name of the kind or variety; for example, Ox Brand Golden Cross sweet corn. Seed shall not be advertised under a trademark or brand name in any manner that may create the impression that the trademark or brand name is a variety name. If seed advertised under a trademark or brand name is a mixture of varieties and if the variety names are not stated in the advertising, a description similar to a varietal description or a comparison with a named variety shall not be used if it creates the impression that the seed is of a single variety.

[21 FR 4652, June 27, 1956, as amended at 32 FR 12780, Sept. 6, 1967; 59 FR 64491, Dec. 14, 1994]

§ 201.36c Hermetically-sealed containers.

The 5-month limitation on the date of test in §§ 201.22 and 201.30a shall not

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apply when the following conditions have been met:

(a) The seed was packaged within 9 months after harvest;

(b) The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100 °F. with a relative humidity on one side of 90 percent and on the other side of 0 percent. Water vapor penetration or WVP is measured by the standards of the U.S. Bureau of Standards as:

gm.H₂O / 24 hr. / 100 sq. in. / 100 °F. / 90% RH V.0% RH;

(c) The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed below:

Agricultural seeds	Percent
Beet, field	7.5
Beet, sugar	7.5
Bluegrass, Kentucky	6.0
Clover, crimson	8.0
Fescue, red	8.0
Mustard, India	5.0
Ryegrass, annual	8.0
Ryegrass, perennial	8.0
All others	6.0

Vegetable seeds	Percent
Bean, garden	7.0
Bean, lima	7.0
Beet	7.5
Broccoli	5.0
Brussels sprouts	5.0
Cabbage	5.0
Cabbage, Chinese	5.0
Carrot	7.0
Cauliflower	5.0
Celeriac	7.0
Celery	7.0
Chard, Swiss	7.5
Chives	6.5
Collards	5.0
Corn, sweet	8.0
Cucumber	6.0
Eggplant	6.0
Kale	5.0
Kohlrabi	5.0
Leek	6.5
Lettuce	5.5
Melon	6.0
Mustard, India	5.0
Onion	6.5
Onion, Welsh	6.5
Parsley	6.5
Parsnip	6.0
Pea	7.0
Pepper	4.5
Pumpkin	6.0
Radish	5.0
Rutabaga	5.0
Spinach	8.0
Squash	6.0
Tomato	5.5

Vegetable seeds	Percent
Turnip	5.0
Watermelon	6.5
All others	6.0

(d) The container is conspicuously labeled in not less than 8 point type to indicate (1) that the container is hermetically sealed, (2) that the seed has been preconditioned as to moisture content, and (3) the calendar month and year in which the germination test was completed.

(e) The percentage of germination of vegetable seed at the time of packaging was equal to or above the standards in §201.31.

[32 FR 12780, Sept. 6, 1967, as amended at 59 FR 64491, Dec. 14, 1994]

INSPECTION

§ 201.37 Authorization.

When authorized by the Administrator of the Agriculture Marketing Service, or by such other person as may be designated for the purpose, Federal employees and qualified State officials, for the purposes of the act, may draw samples of, secure information and inspect records pertaining to, and otherwise inspect seeds and screenings subject to the act.

[15 FR 2394, Apr. 28, 1950, as amended at 59 FR 64492, Dec. 14, 1994]

§ 201.38 Importations.

Prior to release into the commerce of the United States, imported seed and screenings shall be inspected as provided in §§361.4 of this title.

[5 FR 32, Jan. 4, 1940, as amended at 62 FR 48459, Sept. 16, 1997]

SAMPLING IN THE ADMINISTRATION OF THE ACT

§ 201.39 General procedure.

(a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity. When more than one trierful of seed is drawn from a bag, different paths shall be followed. When more than one handful is taken